

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

THOMAS MEDSKER,	:	Case No. 3:05cv1966
	:	
Plaintiff,	:	JUDGE KATHLEEN O'MALLEY
	:	
v.	:	
	:	<u>ORDER</u>
JESSE WILLIAMS (Warden),	:	
	:	
Defendant.	:	

Thomas Medsker, acting through counsel, has petitioned this Court for a writ of *habeas corpus* pursuant to 28 U.S.C. §2254, in which he challenges the constitutional sufficiency of his conviction for burglary. In sum, Medsker's petition contends that: (1) he was deprived of effective assistance of counsel (at various stages of his case and for different reasons); (2) his sentence violates the sentencing guidelines; (3) the evidence upon which his conviction was based is insufficient; (4) the jury instructions were defective; and (5) the prosecutor engaged in misconduct in violation of Medsker's constitutional rights.

Medsker's petition was referred to a magistrate judge of this Court, pursuant to 28 U.S.C. §636(b)(1)(C). The magistrate judge issued a Report and Recommendation ("R&R") (Doc. 12) in which she recommended that Medsker's petition be denied his case dismissed. Medsker has not filed any objections to the R&R. Because the Court reaches the same conclusions as the magistrate judge, no further articulation of its reasoning is required. *Tuggle v. Seabold*, 806 F.2d 87, 92-93 (6th Cir. 1986).

Accordingly, the magistrate judge's R&R is **HEREBY ADOPTED**, and Medsker's petition, and his case, is **DISMISSED**. Pursuant to 28 U.S.C. §1915(a), the Court certifies that an appeal *in forma pauperis* from this decision would be frivolous and could not be taken in good faith.

IT IS SO ORDERED.

s/Kathleen M. O'Malley
KATHLEEN McDONALD O'MALLEY
UNITED STATES DISTRICT JUDGE

Dated: January 30, 2006